FILED
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JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1967.

No. 692

PAUL V. BYRNE, JR.,

Petitioner,

vs.

CHICAGO TITLE AND TRUST COMPANY, INDIVIDUALLY AND AS TRUSTEE OF TRUST AGREEMENTS No. 42212 AND No. 44999; THE CATHOLIC BISHOP OF CHICAGO, A CORPORATION SOLE; THE FIRST NATIONAL BANK OF CHICAGO, INDIVIDUALLY AND AS TRUSTEE OF TRUST AGREEMENT No. 51296-6; ROGERS, PAUL AND HANSEN; QUINN, JACOBS, BARRY, AND LATCHFORD; QUINN, JACOBS AND BARRY; JOHN B. HENDRICKS; FRANCIS E. SCHLAX; ROBERT V. HOGAN; FRANK A. KARABA; DON W. FEELEY; KIRK L. MACKINNON; GEORGE A. HANSEN; VLADMIR G. URSE, LORETTO TENNES, INDIVIDUALLY AND AS TRUSTEE OF THE THOMAS BYRNE ESTATE LIQUIDATION TRUST; ALBERT BUCKLEY; DONALD MASTERSON; NORA CAMPION; THADDEUS ADESKO; AND ROBERT L. HUNTER,

Respondents.

MEMORANDUM OF RESPONDENTS HENDRICKS AND KARABA IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

FRANK A. KARABA, *pro se*
and as attorney for John B. Hendricks,
111 West Monroe Street,
Chicago, Illinois 60603.

THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO

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Plaintiff's petition is frivolous upon its face and should be denied for that reason.

The complaint which was dismissed by the District Court (R. 5) alleged, with respect to the defendants Hendricks and Karaba, only that they "are attorneys licensed by the State of Illinois and officers of the Courts of Illinois"

(par. 3 e)); that they, together with others, "in concert with the defendant Hunter in proceedings in both open court, and in defendant Hunter's chambers without any recordation thereof, conspired to distrain the plaintiff and coerce the plaintiff into accepting a prejudicial and nugatory settlement" (par. 14); and that all the acts of the defendants were "knowingly and wilfully done by each and all of them acting in concert for the purpose of impeding the due course of justice with the intention of injuring plaintiff and his property . . ." and were done "under color of the laws and usages of Illinois" in violation of plaintiff's constitutional rights (par. 15). The proposed amended complaint added no further allegations as to defendants Hendricks and Karaba (R. 421-425).

Neither of plaintiff's complaints gave defendants Hendricks and Karaba any notice of any alleged wrong committed by them. Interrogatories addressed to them (R. 75) suggest that plaintiff is aggrieved by attorney Karaba's representation of Hendricks in a collection matter (R. 41). Exhibit I to the complaint (R. 68-70) shows that the order, which is the subject matter of paragraph 14 of the complaint, was entered by Judge Hunter on October 8, 1965, and provided for the distribution of funds to certain persons. Paragraph 3(e) provided for distribution of "$700.00 to John Hendricks judgment creditor of . . . Paul V. Byrne, Jr. in full satisfaction and release of garnishment proceedings against The First National Bank of Chicago, pursuant to agreement and stipulation of said John Hendricks to dismiss garnishment proceedings in 64 M1-510834." Following Judge Hunter's signature is the notation "Order Approved" followed by signatures of Paul V. Byrne, Jr. (petitioner herein) and his attorney, Harry R. Booth, in that case. No allegation has been made by plaintiff that Mr. Booth did not properly represent his interests in that case.

The complaint did not charge that defendants Hendricks and Karaba had anything to do with the commitment proceeding which long preceded the above described collection matter and which was the subject matter of prior litigation between plaintiff and others, including one of the defendants here. *Byrne* v. *Kysar*, 347 F. 2d 734 (7th Cir. 1965) certiorari denied 383 U. S. 913, rehearing denied 384 U. S. 914.

The petition for a writ of certiorari should be denied.

Respectfully submitted,

FRANK A. KARABA, *pro se*
and as attorney for John B. Hendricks,
111 West Monroe Street,
Chicago, Illinois 60603.

November 3, 1967.